HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, April 19, 2017
85th Legislature, Number 53
The House convenes at 10 a.m.

Eleven bills are on the daily calendar for second-reading consideration today. They are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 53

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Wednesday, April 19, 2017
85th Legislature, Number 53

SUBJECT: Regulating transportation network companies primarily at the state level

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Morrison, Martinez, Burkett, Goldman, Minjarez, Phillips, Simmons, E. Thompson, Wray

2 nays — Y. Davis, Israel

2 absent — Pickett, S. Thompson

WITNESSES: For — April Mims, Lyft; Dorene Ocamb, Mothers Against Drunk Driving; Josiah Neeley, R Street Institute; Angela Preston, Sterling Talent Solutions; Bryan Mathew, Texas Public Policy Foundation; Trevor Theunissen, Uber Technologies; Tim Ryle, Williamson County Sheriff's Office; Ellen Troxclair; (*Registered, but did not testify*: Kelly Curbow, AT&T; Ray Hunt, Houston Police Officers Union; Caroline Joiner, TechNet; Daniel Gonzalez, Texas Association of Realtors; Miranda Goodsheller, Texas Association of Business; Robert Flores, Texas Association of Mexican American Chambers of Commerce; Dana Harris, Greater Austin Chamber of Commerce; Noel Johnson, Texas Municipal Police Association; Amy Bresnen, Chris Hosek, Kyle Hoskins)

Against — David Wittie, ADAPT of Texas; Steve Adler and Lee Davila, City of Austin; Snapper Carr, City of El Paso; Jeff Coyle, City of San Antonio; David Piperno, Fasten; Regina Radulski, GetMe; Kathryn Bruning, City of Houston Mayor's Office; Heather Lockhart, Texas Municipal League; Sandy Greyson, City of Dallas; David Butts; (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Roberto Trevino, City of San Antonio; Jesse Ozuna, City of Houston Mayor's Office; Melissa Miles, City of Dallas; William Busby; Matt Hersh; Laura Morrison)

On — Heiwa Salovitz, ADAPT of Texas; Chase Bearden, Coalition of Texans with Disabilities; Jean Langendorf, Disability Rights Texas; Brian Francis, Texas Department of Licensing and Regulation

BACKGROUND: Insurance Code, ch. 1954, established by the 84th Legislature through HB 1733 by Smithee and in effect since January 2016, requires transportation network company (TNC) drivers or owners to maintain primary auto insurance that is active any time the driver is logged into the TNC's network. It also establishes minimum coverages that increase when the driver has accepted a ride. If the driver's insurance has lapsed or is insufficient, a TNC is required to provide coverage beginning with the first dollar of the claim against the driver.

DIGEST: HB 100 would preempt local regulations on transportation network companies (TNCs) and establish a statewide regulatory and licensing procedure through the Texas Department of Licensing and Regulation (TDLR).

Definition and state authority. The bill would define a TNC as an entity that enables a passenger to prearrange a ride with a driver exclusively through the entity's digital network. The term would not include an entity that provided street-hail taxicabs, carpools, or limousine services that could be arranged through a method other than a digital network.

HB 100 would give the state exclusive authority to regulate TNCs. Localities would be prohibited from imposing a licensing requirement, regulating entry to the market, or imposing a tax on TNCs or their operations. However, an airport operator could establish certain regulations and a reasonable fee for TNCs that provide services at the airport.

State permit. A TNC would be required to apply for and receive a permit before operating in the state. Permit holders would have to meet the requirements of the bill and pay an annual fee of $5,000 to TDLR. Requirements for maintaining the permit would include:

- maintaining insurance as required by Insurance Code, ch. 1954;
- disclosing to passengers an estimated fare if requested;
- accepting payments only through the digital network and prohibiting cash transactions;
- providing an itemized electronic receipt at the end of a ride; and

- adopting a policy that prohibited a TNC driver from any amount of intoxication while logged in to the company's digital network.

Requirements for drivers. HB 100 would prohibit TNCs from allowing a driver to log into the digital network until the TNC confirmed that the individual:

- was at least 18 years old;
- had a valid driver's license; and
- had proof of registration and insurance on each vehicle to be used for TNC services.

TNCs also would be required to review a potential driver's driving record and perform a background check on each driver that searched the national sex offender registry and criminal records in multiple states and jurisdictions. Anyone found in the national sex offender registry would not be permitted to log in as a driver to the digital network. Drivers would be disqualified if they had a certain number of previous convictions within varying periods of time. Specifically, a TNC could not allow a driver to log in who had been convicted of:

- more than three moving violations in past three years;
- fleeing or attempting to elude a police officer, reckless driving or driving without a valid driver's license in the past three years;
- driving while intoxicated, fraud, property damage, theft, use of a motor vehicle to commit a felony, or an act of terrorism or violence in the past seven years.

Drivers could not provide or solicit rides that had not been negotiated through the TNC’s digital network. They would be required to have access to digital identification stored on the TNC digital network that contained photos of the vehicle and the driver, insurance information, and details about the vehicle's make, model, and license plate number.

Drivers would be classified as independent contractors, as long as both the driver and the TNC agreed to the classification in writing and the TNC did not impose certain limitations on drivers' hours, driving territory, or

engaging in other occupations.

Vehicle requirements. The bill would require that vehicles used to provide TNC services have four doors, have passed a state inspection, and have a maximum capacity of eight occupants, including the driver. Additionally, a vehicle also used as a taxicab or limousine would not be allowed to provide TNC services.

Accessibility and nondiscrimination. TNCs would be required to adopt a policy prohibiting drivers from discriminating on the basis of a passenger's location or destination, race, religion, sex, disability, or age. The policy would have to prohibit a driver from declining service to a passenger with a service animal unless the driver had a medically documented condition that prevented the driver from transporting an animal.

The bill also would prohibit a TNC from imposing an additional charge for transportation of individuals with physical disabilities because of those disabilities. If a passenger required a wheelchair-accessible vehicle, the bill would require TNCs either to provide service or direct the passenger to an alternative provider if one were available.

Recordkeeping. HB 100 would require a TNC to maintain records showing compliance with the provisions in the bill for two years, individual ride records for at least one year after the date of the ride, and driver records for at least one year after a driver became inactive. The bill would prohibit a TNC from disclosing a passenger's personally identifiable information to a third party unless:

- the passenger consented;
- the disclosure was required by a legal obligation; or
- the disclosure was required to protect or defend the TNC's terms of use or to investigate a violation of those terms.

TDLR could not disclose records from the TNC to a third party, except in compliance with a court order or subpoena, and would be required to take all reasonable measures to secure the information.

Enforcement. TDLR would be allowed to suspend or revoke the permit of a TNC that did not meet the requirements of the bill.

Effective date. Under HB 100, any conflicting local ordinances would become ineffective beginning on the bill's effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 100 would eliminate the patchwork of local rules that limit the number of transportation network company (TNC) drivers and thereby would increase transportation options for Texans. In place of these local rules, the bill would establish common-sense statewide regulations that maintained public safety while securing the economic and societal benefits that come with increased transportation options.

State authority. The bill would eliminate burdensome local regulations, which would give citizens easier access to a source of income when needed. The average TNC driver seeks to work part time to supplement or temporarily replace income. These drivers may not make enough to offset large upfront costs, such as for fingerprinting and driver physicals, which drivers often are expected to pay for themselves. State preemption of such rules would allow citizens to quickly supplement income after a job loss or other economic setback.

Under the bill, drivers could serve multiple cities without applying for a new driver permit in each one. TNCs and drivers currently need city-specific permits in many municipalities. However, it is not unusual for TNC drivers to travel from one city to another for major events or across metropolises during a day, and the regulatory framework should reflect that reality. HB 100 would establish a more efficient statewide market.

This bill would increase access to transportation, which benefits consumers, businesses, and public safety. Local rules create barriers to entry in each market, reducing the number of available drivers, and can cause demand for transportation to overwhelm supply, resulting in long wait times and acting as a bottleneck on the economic benefits of TNCs. Similarly, more transportation options provide extensive societal benefits.

A Temple University study found the least expensive level of Uber service alone led to a reduction of up to 5 percent in motor vehicle homicides, largely caused by drunk driving, per quarter in California.

The bill would be an acceptable infringement on local control because current municipal regulations are eroding, not protecting liberty. Local control is a tool to increase freedoms, rather than an end goal in and of itself. Unlike the state's relationship to the federal government, Texas municipalities are creations of the state, which grants their powers, so it would be acceptable for the state to limit local control of TNC rules.

Requirements for drivers. No transportation option is entirely safe, and the bill would eliminate burdensome local regulations that force consumers to accept the higher costs associated with fingerprint background checks. Instead, TNCs would be able to use internal policies to hire drivers, and allow consumers to choose services that protect riders and avoid those that do not.

Fingerprint-based background checks add costs without improving passenger safety. TNCs already use accredited multi-state commercial background checks and screen against the national sex offender registry. Additionally, security features built into TNCs, including GPS tracking, driver photos, and standards based on rider reviews, provide acceptable rider safety.

Vehicle requirements. The bill appropriately would require vehicles used for TNCs to have four doors in order to ensure that passengers, some of whom may be elderly or disabled, were able to easily exit or enter the vehicle. However, TNCs are able to set their own standards on vehicle appearance, so the state does not need to codify that practice in law.

Applicability. While taxicabs and limousines theoretically could be regulated at the state level, the nature of TNC services makes the state rather than municipal level of government the most appropriate place for TNCs to be regulated.

OPPONENTS SAY:

HB 100 would reduce public safety, unnecessarily harm fundamental principles of government like local control, negatively impact people who

are disabled, and unfairly disadvantage taxicab and limousine companies that compete with TNCs.

State authority. The bill would harm the ability of localities to maintain a level of public safety that suits their citizens. Local regulations ensure that TNCs, which can be large, multinational corporations worth billions of dollars, are held strictly accountable to local standards. City officials are closer to constituents and better able to create policies reflecting local values. Austin voters showed support for local rules by defeating a referendum that would have nullified the city's fingerprint background check requirement, and the Legislature should not second-guess the will of the voters with the bill.

Municipal regulations are not an excessive burden. TNCs operate and expand in cities with stringent requirements, and these cities have not experienced a shortage of drivers. Moreover, local rules do not substantially slow the process of signing up to drive. Most municipalities that require drivers to have licenses issued by the city also issue provisional ones that allow a driver to drive temporarily while completing the application process. Provisional licenses allow a driver to begin work quickly and increase the availability of drivers. Therefore, the bill is unnecessary as it would not result in additional societal benefits such as further reductions in drunk driving.

Local control itself is a valuable objective, and this bill would increase the distance between regulators and those affected by TNCs. Local regulators are more responsive to individual concerns and thus more effective at holding TNCs accountable and ensuring public safety.

Requirements for drivers. The bill would eliminate municipal ordinances that voters and localities have selected to increase public safety. City-mandated fingerprint background checks reduce risk to passengers and therefore are worth the added cost.

Fingerprint background checks are considered the gold standard because they involve more records and reveal more information than other methods. Other forms of background checks may be vulnerable to fraud and misidentification, but fingerprints nearly eliminate the chance of

failing to identify someone with a criminal record. Commercial background checks search for court records only in specific jurisdictions and can miss those not searched. The city of Houston has reported that several applicants for vehicle-for-hire licenses who passed a commercial, multi-state background check were later found by a fingerprint background check to have committed serious crimes. This bill would preempt mandates made by cities in response to these concerns.

Accessibility and nondiscrimination. The bill would do away with municipal regulations that have proven to be effective at increasing availability of wheelchair-accessible services, which could leave citizens with disabilities stranded. Furthermore, the bill would reduce the competitiveness of taxis, which more commonly provide wheelchair-accessible services. This could increase shortages of affordable wheelchair-accessible vehicles in the long run.

Applicability. The bill would exacerbate the effects of an unfair playing field by preempting regulations on TNCs but not on taxicabs, which provide the same basic public service. Taxicabs generally are heavily regulated at the local level and subject to limits on fares, vehicle appearance, and number of vehicles, putting them at a disadvantage compared to TNCs, which would not be subject to such restrictions under the bill.

OTHER OPPONENTS SAY:

Vehicle requirements. HB 100's requirements for TNC vehicles should be more expansive. The bill would only require vehicles to pass a state inspection, have four doors, and have a capacity of 8 occupants including the driver. But TNC vehicles, which frequently serve airports, can be the first image of a city and Texas that visitors see. Therefore, these vehicles should be subject to basic requirements beyond those covered in state inspections, such as mandating working heating and air conditioning and prohibiting vehicles with major cosmetic damage.

The bill also would pick winners and losers by prohibiting TNCs from using certain types of vehicles. While sedans are the usual vehicles currently used for TNC services, there is no reason that all TNC vehicles should be required to have four doors. Similarly, the bill should not

unreasonably prohibit vehicles also used as a taxi or limo from being used for TNC services.

Applicability. Instead of preempting only regulations on TNCs, the Legislature should preempt all regulations on vehicles-for-hire, enabling consumer choice to regulate the market. This would ensure taxicabs and limousines were able to compete on an even playing field with TNCs.

NOTES:

In its fiscal note, the Legislative Budget Board estimates that the bill would have a negative impact of $128,000 through fiscal 2018-19 if the effective date of the bill was June 1, 2017, or a negative impact of $163,000 through fiscal 2018-19 if the effective date was September 1, 2017.

A companion bill, SB 176 by Schwertner, was left pending in the Senate Committee on Business and Commerce after a public hearing on March 14.

SUBJECT: Specifying authority to investigate workers' compensation fraud

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Oliveira, Shine, Collier, Romero, Stickland, Villalba, Workman

0 nays

WITNESSES: For — (*Registered, but did not testify*: Adam Burklund, American Insurance Association; Chris Jones, Combined Law Enforcement Associations of Texas; Annie Spilman, National Federation of Independent Business/Texas; Joe Woods, Property Casualty Insurers Association of America; Cathy Dewitt, Texas Association of Business; Rene Lara, Texas AFL-CIO; Jo Betsy Norton, Texas Mutual Insurance Company)

Against — None

On — Nick Canaday, Texas Department of Insurance, Division of Workers' Compensation

BACKGROUND: Insurance Code, sec. 701.101 tasks the insurance fraud unit within the Texas Department of Insurance (TDI) with investigating fraudulent insurance activities.

Labor Code, sec. 414.005 tasks TDI's Division of Workers' Compensation with maintaining an investigation unit to evaluate claims of administrative violation and breach of duty in workers' compensation cases.

Labor Code, sec. 418.001 classifies fraudulently obtaining or withholding workers' compensation benefits or coverage valued under $1,500 as a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000). Fraudulently obtaining or withholding workers' compensation benefits or coverage valued at $1,500 or more is classified as a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

DIGEST:

HB 2053 would add that the Texas Department of Insurance's Division of Workers' Compensation had to maintain its investigation unit to investigate alleged offenses under the Texas Workers' Compensation Act, with particular emphasis on fraudulently obtaining or denying benefits or fraudulently obtaining workers' compensation insurance coverage. The division also would be allowed to provide technical or litigation assistance to an authority to which it referred persons involved in a case.

The bill would authorize the commissioner of workers' compensation to issue subpoenas compelling the attendance and testimony of a witness or the production of materials relevant to a workers' compensation fraud investigation, regardless of the state in which the witness or materials were located.

HB 2053 also would increase from less than $1,500 to less than $2,500 the value up to which fraudulently obtaining or withholding workers' compensation benefits or coverage was a class A misdemeanor. Fraudulently obtaining or withholding workers' compensation benefits or coverage valued at $2,500 or more would be classified as a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to offenses committed and subpoenas issued on or after that date.

SUPPORTERS SAY:

HB 2053 would help the Texas Department of Insurance (TDI) more effectively respond to workers' compensation fraud by establishing a much-needed centralization of authority and resources within the department. Currently, both the insurance fraud unit and the Division of Workers' Compensation (DWC) investigate workers' compensation fraud claims, resulting in duplicate expenses and information gaps between the agencies. Housing these investigations within the division would be a better use of TDI’s resources.

The bill would ensure that only the most qualified experts conducted workers' compensation fraud investigations. The Division of Workers'

Compensation retains attorneys trained specifically to analyze workers' compensation cases, providing a specialized resource that cannot be used effectively without centralized authority over investigations and the ability to issue subpoenas.

The bill would take an important step toward resolving a threat to the Texas economy. Workers' compensation fraud is a cost that is passed on to insurance purchasers in the form of higher premiums. In order to best respond, TDI should be able to use its resources as efficiently as possible.

HB 2053 also would update criminal penalty thresholds to conform to current Penal Code standards, which were amended in 2015 by the 84th Legislature to define a state-jail felony as theft valued at $2,500 or more.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A Senate companion, SB 1306 by Creighton, was referred to the Senate Business and Commerce Committee on March 14.

SUBJECT: Allowing municipalities to transfer property in Chapter 380 agreements

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 7 ayes — Button, Vo, Bailes, Deshotel, Hinojosa, Metcalf, Ortega

0 nays

2 absent — Leach, Villalba

WITNESSES: For — Jessica Herrera, City of El Paso; Donnis Baggett, Texas Press Association; (*Registered, but did not testify*: Brie Franco, City of Austin; Tom Tagliabue, City of Corpus Christi; Lindsey Baker, City of Denton; Guadalupe Cuellar, City of El Paso; Michael Kovacs, City of Fate; TJ Patterson, City of Fort Worth; Tom Hart, City of Grand Prairie; Jon Weist, City of Irving; James McCarley, City of Plano; Jeff Coyle, City of San Antonio; Rick Ramirez, City of Sugarland; Edward Broussard, City of Tyler; Carlton Schwab, Texas Economic Development Council; Monty Wynn, Texas Municipal League)

Against — None

BACKGROUND: Local Government Code, sec. 380.001 allows municipalities to establish and administer economic development programs, including those for making loans and grants of public money, providing personnel and services, and stimulating business and commercial activity. Under sec. 272.001(a), before land owned by a municipality may be sold or exchanged, notice must be published in a local newspaper with a description of the bidding procedure and of the land and its location.

DIGEST: HB 1352 would allow municipalities participating in Chapter 380 economic development agreements to transfer real property or an interest in real property to an entity to use in a manner that primarily promotes a public purpose related to economic development.

Property conveyance agreements would have to include provisions

ensuring that the municipality retained sufficient control to ensure that the public purpose of the transfer was fulfilled.

Before making such a property transfer, a municipality would have to provide notice to the general public by publication in a local newspaper. Notice would have to be published on two separate days within 10 days before the date of transfer and would have to include a description of the real property and its location.

HB 1352 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 1352 would allow Texas to become more economically competitive by increasing the scope of incentives municipalities could offer to recruit corporations and projects for economic development initiatives. The availability of property can be a determining factor for companies considering relocation to Texas. The bill would clarify the authority of municipalities to transfer property for economic development purposes, which is not explicitly stated in current law.

The bill would increase local control by expanding the tools municipalities could leverage in recruitment negotiations. Currently, municipalities that wish to convey property are subject to burdensome bidding requirements, and the bill would allow them to maximize the utility of their land by more quickly transferring property. It also could increase property tax revenue by allowing for the transfer of state-owned land that is not currently taxable to the private sector.

HB 1352 would increase public awareness about municipally led economic development initiatives. Requiring published notice well in advance of the property transfer would help constituents become better informed about local economic development and would provide them an opportunity to voice any potential opposition to the conveyance of property. The method of notice required by the bill would conform to current standards in the Local Government Code about municipal conveyance of property.

The bill would not increase the power of municipalities to seize private property through eminent domain. Government Code, sec. 2206.001 prevents governmental entities from using eminent domain to take private property for economic development purposes.

Allowing municipalities to avoid the competitive bidding process would not harm local economies. The bidding process required by current statute can be burdensome for both municipalities and bidders. In cases where municipalities quickly need to guarantee an offer of property transfer to secure an economic development agreement, the potential benefits of job creation and sales tax revenues outweigh the potential losses incurred by foregoing the bidding process.

The bill could be amended to specify that public parks and squares could not be transferred under the provisions of HB 1352.

OPPONENTS SAY:

HB 1352 could expand the state's eminent domain powers by not specifying that property conveyed under a Chapter 380 agreement would have to be owned by the municipality. This ambiguity could create the potential for the government to infringe on property ownership rights.

The bill could deprive municipalities of potential revenue from the sale of property earned through the process of competitive bidding required by current law. The free market, not municipal government, ultimately should guide the sale and transfer of property.

The bill also could allow municipalities to corporatize public parks and squares, potentially depriving citizens of a public good that aids tourism.

OTHER OPPONENTS SAY:

The bill's requirements would not be sufficient to provide public notice about the sale or transfer of property because much of the public does not read local newspapers. A better alternative would be to require municipalities to provide notice of sale or transfer in the same way in which they typically provide public notice, whether that is through a website, kiosk, or other means.

NOTES:

The author plans to offer a floor amendment specifying that the bill would not allow municipalities to sell or transfer property designated as a public

park or square.

A companion bill, SB 438 by Rodríguez, was referred to the Senate Committee on Natural Resources and Economic Development on February 6.

SUBJECT: Certifying peer specialists and including peer services in Medicaid

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Price, Sheffield, Burkett, Cortez, Guerra, Oliverson, Zedler

0 nays

4 absent — Arévalo, Coleman, Collier, Klick

WITNESSES: For — Dennis Borel, Coalition of Texans with Disabilities; Reginald Smith, Communities for Recovery; Latosha Taylor, Grassroots Leadership; Deborah Rosales-Elkins, NAMI Texas; Will Francis, National Association of Social Workers - Texas Chapter; Michelle Hansford, One Voice Texas; Traci McMurtry, Amelia Murphy, Demetra Sims, and Lillian Stephens, Santa Maria Hostel; Kimber Falkinburg and Mike Janke, Spread Hope Like Fire; Lee Johnson, Texas Council of Community Centers; Marissa Dodson; Sachin Kamble; (*Registered, but did not testify*: Cynthia Humphrey and Duane Galligher, Association of Substance Abuse Programs; Anne Dunkelberg, Center for Public Policy Priorities; Bobby Gutierrez, Justice of the Peace and Constable Association of Texas; Barbara Frandsen, League of Women Voters of Texas; Bill Kelly, Mayor's Office, City of Houston; Andy Keller, Meadows Mental Health Policy Institute; Natalie Smith, Mental Health America of Greater Houston; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Mark Mendez, Tarrant County; Adriana Kohler and Josette Saxton, Texans Care for Children; Tim Schauer, Texas Association of Community Health Plans; Laura Nicholes, Texas Association of Counties; Jamie Dudensing, Texas Association of Health Plans; Donald Lee, Texas Conference of Urban Counties; Sara Gonzalez, Texas Hospital Association; Michelle Romero, Texas Medical Association; David White, Texas Psychological Association; James Thurston, United Ways of Texas; Chris Frandsen)

Against — None

On — Colleen Horton, Hogg Foundation for Mental Health; (*Registered, but did not testify*: Jonathan Huss, Department of State Health Services; Sonja Gaines and Tamela Griffin, Health and Human Services Commission)

DIGEST:

CSHB 1486 would require the Health and Human Services Commission (HHSC) to include peer services provided by certified peer specialists in its rules and standards governing the scope of services provided under Medicaid, to the extent permitted by federal law. The bill also would direct HHSC, with input from mental health and substance use peer specialists and a workgroup established by the bill, to develop rules to:

- establish training requirements for peer specialists so they could provide services to persons with mental illness or services to persons with substance use conditions;
- establish certification and supervision requirements for peer specialists;
- define the scope of services that peer specialists could provide;
- distinguish peer services from other services that a person must hold a license to provide; and
- protect the health and safety of persons receiving peer services, as necessary.

The bill would direct the HHSC executive commissioner to adopt the rules developed by HHSC as soon as practicable after the bill took effect. If the executive commissioner had not adopted the rules by September 1, 2018, he would be required to submit a written report to the governor, the lieutenant governor, the House speaker, the chair of the Senate Committee on Health and Human Services, and the chair of the House Committee on Public Health explaining why the rules had not yet been adopted.

The HHSC executive commissioner could not adopt rules that precluded the provision of mental health rehabilitative services as governed by 25 Texas Administrative Code, ch. 416, subch. A, as it existed on January 1, 2017.

The stakeholder workgroup established by the bill would include:

- one representative of each organization that certified mental health and substance use peer specialists in Texas;
- three representatives of organizations that employed mental health and substance use peer specialists;
- one mental health peer specialist who worked in an urban area;
- one mental health peer specialist who worked in a rural area;
- one substance use peer specialist who worked in an urban area;
- one substance use peer specialist who worked in a rural area;
- one person who trained mental health peer specialists;
- one person who trained substance use peer specialists;
- three representatives of mental health and addiction licensed health care professional groups who supervised mental health and substance use peer specialists;
- to the extent possible, up to three individuals with personal experience recovering from mental illness, substance use conditions, or co-occurring mental illness and substance use conditions; and
- any other persons the HHSC executive commissioner considered appropriate.

The HHSC executive commissioner would appoint members to the workgroup as soon as practicable after the bill took effect and would appoint one member to serve as presiding officer. The workgroup would meet monthly and would be abolished after the HHSC executive commissioner adopted rules governing peer specialists.

If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of that provision, the affected agency would request the waiver implementation and could delay implementing the provision until the waiver or authorization was granted.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1486 is intended to address the state's significant mental health workforce shortage and to improve opportunities for recovery for individuals experiencing serious mental health or substance use conditions by increasing access to peer specialist services. Peer specialists have significant training and education in the field of mental health or substance use disorders and have a history of living with a mental health condition, a substance use disorder, or both. They provide a unique and essential behavioral health service by assisting individuals experiencing mental illness, substance use, or a co-occurring condition with recovery, wellness, self-direction, responsibility, and independent living.

While peer specialist services are part of a continuum of care and are not intended to replace existing mental health or substance use services, the frequency of those services, such as an emergency room visit, can be reduced when an individual is supported by a peer. This often can result in lower costs and better outcomes. Peer specialists perform a different role from Alcoholics Anonymous (AA) sponsors, but they may offer an AA program to clients as one of many resources for recovery.

The bill would not prevent community organizations from continuing to train and certify peer specialists but would standardize these requirements across the state to ensure fidelity to the peer support model of care. CSHB 1486 also would standardize the definition of peer services as well as the eligibility, certification, and supervision requirements for the delivery of peer support services. The bill would provide protections from peer specialists who were not certified and raise the profile of peer services and the unique services they provide.

Stakeholders would provide input to the Health and Human Services Commission (HHSC) on rulemaking through a workgroup that would be abolished after rules were adopted. The workgroup would include mental health and substance use peer specialists from urban and rural areas, representatives from peer specialist training and certifying organizations, persons with lived experience of mental illness or substance use recovery, and other representatives to give meaningful input to the HHSC rulemaking process.

CSHB 1486 would provide Medicaid reimbursement for peer specialist

services outside of mental health rehabilitation services at a local mental health authority. Providing reimbursement for peer specialist services would benefit both the peer specialist and the patient, helping the patient to reach recovery and the peer specialist to leverage their lived experience of mental illness or substance use to support others in recovery. Providing peer services through Medicaid is significantly less expensive than repeated hospital visits, incarceration, or inpatient substance use treatment due to untreated mental illness, substance use, or a co-occurring condition. The bill would create savings for the state in the long run and would reduce Medicaid cost growth. There is data supporting the success rate of peer specialist services in reducing behavioral health costs.

OPPONENTS SAY:

Some community organizations have their own certification and training requirements for peer specialists, and HHSC does not need to perform this role. CSHB 1486 would cost the state $1.5 million in general revenue in fiscal 2018-19 to provide peer specialist services, and it is unknown whether the bill would generate future savings.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 1486 would have a negative impact to general revenue related funds of $1.5 million through fiscal 2018-19.

CSHB 1486 differs from the introduced bill by creating a stakeholder workgroup to provide rule input, adding a provision prohibiting the HHSC executive commissioner from adopting rules that would preclude the provision of mental health rehabilitative services, and requiring the HHSC executive commissioner to submit a written report to certain officials if rules were not adopted by September 1, 2018.

SUBJECT: Collecting and reporting foster care history of juvenile offenders

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 5 ayes — Dutton, Dale, Moody, Schofield, Thierry

2 nays — Biedermann, Cain

WITNESSES: For — (*Registered, but did not testify*: Terry Smith, Dallas County Juvenile Department; Will Francis, National Association of Social Workers-Texas Chapter; Katherine Barillas, One Voice Texas; Sarah Crockett, Texas CASA; Ellen Arnold, Texas PTA; Pamela McPeters, TexProtects (The Texas Association for the Protection of Children); Kimberly Knox, Upbring; Sacha Jacobson; CJ Grisham)

Against — None

On — Lauren Rose, Texans Care for Children; (*Registered, but did not testify*: Liz Kromrei, Department of Family and Protective Services; Jill Mata, Texas Juvenile Justice Department)

BACKGROUND: Human Resources Code, ch. 243 governs the admission of juvenile offenders to a secure facility.

DIGEST: HB 932 would require the Texas Juvenile Justice Department (TJJD) to determine whether a juvenile offender committed to the department had ever been placed in foster care, and if so, how many times. This inquiry would be part of the intake process for a juvenile offender sentenced to confinement. TJJD would be required to summarize statistical information concerning the total number and percentage of children held by the department in the preceding two years who had been in foster care and report those figures to the governor and legislative leaders by January 31 of each even-numbered year.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 932 would give policymakers and advocates more information about

the relationship between a child's contact with the juvenile justice system and exposure to the foster care system. Currently, there is little communication between the Texas Juvenile Justice Department (TJJD) and the Department of Family and Protective Services, even though research has shown that youths who are exposed to both systems are younger at the time of their first arrest, have more difficulty in school, and have more extensive mental health needs than youths who are not involved in both systems. The report authorized by this bill would be a first step toward providing the state with more information about its youth who are involved in both systems.

According to the Legislative Budget Board, HB 932 would have no significant fiscal implication to the state. This bill merely would provide data to lawmakers on one of the state's most vulnerable populations in an effort to learn about and address any problems with the connection between foster care and juvenile corrections.

OPPONENTS SAY:

Increasing the data collection and reporting requirements for TJJD could make juvenile justice more expensive. While the issue is serious, the number of juveniles sentenced to confinement is small and does not warrant spending more money or increasing the scope of government.

NOTES:

A companion bill, SB 796 by West, was referred to the Senate Criminal Justice Committee on February 22.

SUBJECT: Modifying the public school finance system

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, VanDeaver

1 nay — Meyer

WITNESSES: *(at March 7 hearing)*
For — Shay Adams, Lovejoy ISD; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; David Dunn, Texas Charter Schools Association; Monty Exter, The Association of Texas Professional Educators; Ray Freeman, Equity Center; Bill Grusendorf, Texas Association of Rural Schools; Courtney Hoffman, Texas ALTA; Mike Lunceford, Houston ISD; Cynthia Lusignolo, Texas City ISD; Lynn Moak, Texas School Alliance, Moak, Casey and Associates; Christy Rome, Texas School Coalition; Arati Singh, Texas PTA; Paul Colbert; Julie Cowan; Rich DePalma; Dusty Harshman; (*Registered, but did not testify*: David D. Anderson, Arlington ISD; Karen Belknap, A+ Academy, Inspired Vision Church; Randy Burks, Texas Schools Coalition, Snyder ISD; Sally Cain, North Texas Region Texas ALTA; Priscilla Camacho, San Antonio Chamber of Commerce; Cody Carroll, Krum ISD; Jodi Duron, Texas Association of Mid-Size Schools; Linda Gladden, Academic Language Therapy Association; Bryan Hebert, School Taxpayers Relief Coalition; Janna Lilly, Texas Council of Administrators of Special Education; Alice Marsel, Dyslexia Center of Austin; Louann Martinez, Dallas ISD, Fort Worth ISD, Texas Urban Council; Mike Meroney and Heather Sheffield, Decoding Dyslexia; Sheryl Pace, Texas Taxpayers and Research Association (TTARA); Mark Terry, Texas Elementary Principals and Supervisors Association; R. Todd Webster, Spring Branch ISD; Shala White Flowers, A+ Charter Schools; Paige Williams, Texas Classroom Teachers Association; Bruce Yeager, Ponder ISD; Kathleen Zimmermann, NYOS Charter School; Barbara Frandsen; Robert Rogers)

Against —Melanie Bush, Conroe ISD; Michael Openshaw; (*Registered,*

but did not testify: C. LeRoy Cavazos-Reyna, San Antonio Hispanic Chamber of Commerce; Adam Cahn)

On — Yannis Banks, Texas NAACP; Michael Barba, Texas Catholic Conference of Bishops; Bret Begert and Richard Meadows, Fort Elliott CISD; Portia Bosse, Texas State Teachers Association; Von Byer and Leonardo Lopez, Texas Education Agency; Aaron Henricksen and Janet Spurgin, Legislative Budget Board; Celina Moreno, Texas Latino Education Coalition; Mike Motheral, Small Rural School Finance Coalition; Chandra Villanueva, Center for Public Policy Priorities; (*Registered, but did not testify*: Joe Waldron, Lefors ISD, Texas School Coalition; Jay Waller, Ira ISD)

(at March 14 hearing)
For — Ted Melina Raab, Texas AFT (American Federation of Teachers); Jesse Romero, Texas Association for Bilingual Education; David Velky, Rocksprings ISD; Paul Colbert; (*Registered, but did not testify*: Terry Abbott, Leander Independent School District; Ellen Arnold, Texas PTA; Barry Haenisch, Texas Association of Community Schools; Joshua Houston, Texas Impact; Max Jones, The Greater Houston Partnership; Janna Lilly, Texas Council of Administrators of Special Education; Colby Nichols, Texas Rural Education Association; Seth Rau, San Antonio ISD; Michelle Smith, Texas Association of School Business Officials; Chad Sparks, Parents for Full and Fair Funding in Texas Public Schools; Mark Terry, Texas Elementary Principals and Supervisors Association; Velma Ybarra, Texas Hispanics Organized for Political Education, Texas State LLULAC; Dwain York, Wimberley ISD; David Anthony)

Against — Sophie Torres, San Antonio Hispanic Chamber of Commerce

On — Von Byer and Leonardo Lopez, Texas Education Agency; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Ray Deason, Ore City ISD)

(at March 21 hearing)
For — Priscilla Camacho, San Antonio Chamber of Commerce; (*Registered, but did not testify*: Deborah Caldwell, North East Independent School District; Grover Campbell and Vernagene Mott,

Texas Association of School Boards; William Chapman, Jarrell ISD; Julie Cowan and Amber Elenz, AISD Board of Trustees; Jennifer Espey, Parents for Full and Fair Funding of Texas Public Schools; James Garrett, Jarrell ISD; Lanet Greenhaw, Dallas Regional Chamber and Angela Farley, Sr. VP Education and Workforce; Barry Haenisch, Texas Association of Community Schools; Tami Keeling, Victoria ISD, TASB; Janna Lilly, Texas Council of Administrators of Special Education; Amanda List, Texas League of Community Charter Schools; Colby Nichols, Texas Rural Education Association; Seth Rau, San Antonio ISD; Heather Sheffield, Texans Advocating for Meaningful Student Assessment; Mark Terry, Texas Elementary Principals and Supervisors Association; Mary Ann Whiteker, Texas Association of School Administrators; Audrey Young, Apple Springs ISD Board of Trustees; Allison Gower; Laura Yeager)

Against — None

On — Leonardo Lopez, Texas Education Agency; Randy Willis, Granger ISD, Texas Association of Rural Schools; (*Registered, but did not testify*: Kara Belew and Von Byer, Texas Education Agency; C. LeRoy Cavazos-Reyna, San Antonio Hispanic Chamber of Commerce)

(at March 28 hearing)
For — (*Registered, but did not testify*: Daniel Gonzalez and Julia Parenteau, Texas Association of REALTORS; Barry Haenisch, Texas Association of Community Schools; Colby Nichols, Texas Rural Education Association; Seth Rau, San Antonio ISD; Kathleen Zimmermann, NYOS Charter School)

Against — (*Registered, but did not testify*: Jamie Haynes)

On — Leonardo Lopez, Texas Education Agency; (*Registered, but did not testify*: Von Byer, Texas Education Agency)

BACKGROUND: Education Code, chapters 41 and 42 govern the distribution of state aid under the Foundation School Program to school districts and public charter schools. Chapter 41 contains wealth equalization provisions that require some property-wealthy districts to share a portion of their local

school property taxes with less-wealthy districts.

DIGEST:

CSHB 21 would revise certain aspects of the formulas used to determine school district and charter school entitlements under the Foundation School Program.

The bill would repeal dedicated funding streams for transportation, high school students, and support staff salaries. It also would repeal a hold harmless provision that has provided extra funding to certain districts since 1993.

The bill would create new weighted funding for students with dyslexia. It would increase weighted funding for students in bilingual education programs and expand weighted funding for 8th graders and high school students in career and technology education programs.

CSHB 21 would create a financial hardship transition grant program for districts that lost funding under provisions of the bill.

Beginning with fiscal 2019, the bill would defer the August payment from the Foundation School Fund to school districts until early September.

Transportation funding. The bill would repeal the allotment for districts providing transportation to students who reside two or more miles from their regular campus.

The Texas School for the Deaf would continue to be entitled to a transportation allotment in an amount determined by the Commissioner of Education. School districts also could continue to receive an allotment determined by the commissioner for transporting deaf students participating in a regional day school program.

The bill would prohibit a county transportation system from receiving transportation funding directly from the state. Funding would come from the individual school districts participating in the county transportation system.

High school allotment. The bill would repeal districts' entitlement to an annual allotment of $275 for each student in average daily attendance in grades 9-12.

Additional state aid for staff salary increases. CSHB 21 would repeal a district's entitlement to $500 multiplied by the number of full-time non-professional employees and $250 multiplied by the number of part-time district employees, other than administrators.

1993 hold harmless provision. The bill would repeal language in Education Code, ch. 41 that allows higher equalized wealth levels for certain districts based on a formula that takes into account the district's 1992-93 revenue per student.

Weight for students with dyslexia. CSHB 21 would include a multiplier of 0.1 by which the basic allotment would be increased for students with dyslexia or a related disorder. Funding would be limited to no more than 5 percent of a district's students in average daily attendance.

Funding would be available only for students who were receiving instruction that meets applicable dyslexia program criteria established by the Texas Education Agency and was provided by an instructor specifically trained for this purpose. Funding also would be available to students who have received the required instruction and are permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom or on state assessments.

Districts could receive funding for a student who met the criteria for dyslexia instruction and also was receiving funding for special education services if the student satisfied the requirements of both programs.

Weight for students in bilingual education programs. The bill would increase the multiplier in the basic allotment from 0.1 to 0.11 for students in bilingual education programs or special language programs.

Career and technology programs. The bill would expand the allotment for career and technology programs offered at the high school level to include 8th grade and would include technology applications courses approved for high school credit.

Financial hardship transition program. If state appropriations were available, CSHB 21 would authorize the Commissioner of Education to create a two-year grant program to defray financial hardships resulting from the bill's school funding changes. Grants would be distributed through a formula based on funding the district would have received

under current law, funding available under changes that would apply after the 2016-17 school year, and the district's maintenance and operations tax rate as specified by the comptroller's most recent report.

A district or charter school's grant could not exceed the lesser of 10 percent of the total amount available or the amount by which "previous law" exceeds "current law" for the district that school year. If funds remained available for a school year after determining initial grant amounts the commissioner would reapply the formula to award all available funds.

Regional education service centers and county departments of education would not be eligible for the grants. The grant amounts could not exceed $125 million for the 2017-18 school year or $75 million for the 2018-19 school year, unless greater amounts were appropriated. The grant program would expire on September 1, 2019.

Payment deferral. Beginning with fiscal 2019, CSHB 21 would defer the August payment from the Foundation School Fund to districts until early September.

Effective date. This bill would take effect September 1, 2017 and would apply only to a payment from the Foundation School Fund made on or after September 1, 2018.

SUPPORTERS SAY:

CSHB 21, in conjunction with the House-passed version of the general appropriations act, would provide more resources for schools and distribute them more appropriately. The bill would simplify school finance formulas and be an important first step toward modernizing a system that has been criticized as a patchwork of fixes in response to a series of school finance court rulings.

Nearly every school district and charter school would receive more funding. The Legislative Budget Board (LBB) estimates that beginning in fiscal 2018 the bill and assumed appropriations would provide increased Foundation School Program (FSP) funding of $1.64 billion to about 96 percent of school districts and more than 98 percent of students.

Equity. By repealing several funding streams that are distributed to districts outside the FSP's equalized system, the bill is expected to

improve equity among districts, according to the LBB. In addition, it would repeal a "hold harmless" mechanism dating to 1993 that has allowed certain districts to keep more revenue per student than other equally wealthy districts.

The increase in the basic per-student allotment from $5,140 to $5,350 proposed in the House-passed general appropriations act would improve funding equity. It also would give districts greater flexibility to determine how to spend their money to best meet their students' needs; for example, by providing more discretion on transportation funding and other programs.

Recapture. CSHB 21 and the increased appropriations could reduce the need for higher property taxes by increasing the state share of school funding and reducing the amount of local property taxes recaptured from certain property-wealthy districts. The LBB estimates the bill would reduce recapture by about $173.6 million in fiscal 2018, $205.3 million in fiscal 2019, and $318.9 million by fiscal 2022.

High school allotment. The bill would end a $275 per-student high school allotment that initially was intended to supplement academic offerings and provide services to students at risk of dropping out. However, because funding is generated for every high school student, it is not linked to the actual costs of serving those at risk. Replacing the allotment with extra funding for all students could allow districts to target spending toward students in earlier grades to provide them with a stronger educational foundation before they reach high school.

Career and technology. Funding career and technology education beginning at the 8th-grade level would help middle and junior high schools enhance career and technology programs and better prepare students for high school courses. The bill would provide schools with new resources to offer quality courses to prepare students for occupations in high demand.

Transportation funding. By increasing the basic allotment, CSHB 21 would provide transportation funding for all schools, including charter schools and certain property-wealthy districts that do not receive the current transportation allotment. The bill, in conjunction with assumed appropriations, is estimated to provide schools with $125 per student to

spend on transportation costs.

The bill would simplify and modernize transportation funding by removing annual calculations of factors such as mileage, gas prices, and student population. These factors can be manipulated under the current system to provide some districts with transportation funding in excess of actual costs.

Weighted student funding. The bill would benefit the approximately 141,000 students with dyslexia identified by districts in the 2015-16 school year. It would provide new funding to help schools meet the additional education needs of these students.

Under current law, districts are required to identify and serve students with dyslexia but do not receive any extra funds to comply with this mandate. The new funding stream in the bill could incentivize schools to ensure students with dyslexia and related disorders were identified and supported. Funds could be used to provide students with specially trained educators, to pay for parent education programs, and for other valuable resources that many districts have struggled to provide. Making this funding available to 5 percent of a district's students would be an appropriate limit and likely sufficient to cover the population it is intended to help.

CSHB 21 also would provide extra funding for bilingual education programs that have been shown to significantly close the achievement gap between English language learners and native English speakers. The bilingual education weight was established in 1984 and has not been updated since, despite the fact that the number of students struggling to learn English has grown dramatically in the past few decades.

Some have said the bill should provide a larger increase in the weight for bilingual students and should increase the weight for students in compensatory education programs. Such funding increases would be too expensive in the current fiscal environment.

Others have said the Legislature should study the costs of educating these and other student populations during the interim and use the results to determine the actual costs of providing a constitutionally adequate education. Such a cost study would not guarantee legislative funding and

could become an issue in future school finance litigation. It would be better for the Legislature to enact the reforms included in CSHB 21 and improve funding for Texas students this year.

Hardship grants. The $200 million hardship grant program would be a reasonable way to help offset funding reductions that some districts would experience under the bill. It would be appropriate to compensate those districts that lost money under changes made by the bill even though many are considered property wealthy. Unlike previous legislative efforts to hold districts harmless for funding revisions, the bill would end the grants after two school years.

OPPONENTS SAY:

CSHB 21 would result in less funding for some school districts at a time when all districts are facing financial pressures and rising expectations for students. Even with the changes to funding formulas, the state's school finance system still would rely too heavily on local property value increases to make up for state funding inadequacies.

Instead of moving forward with this bill, the Legislature should take time during the interim to study the actual costs of providing an adequate education to different student populations and then make funding decisions based on the results of those studies.

Transportation funding. The bill would change how the state funds transportation by eliminating the transportation allotment tied to costs such as miles traveled and ridership. Instead of funding transportation based on actual costs, transportation funding would be included in a district's base funding with no requirement that the money go toward transporting students. The lack of dedicated transportation funding might lead districts to use the money for other purposes.

Under the bill, some districts and charter schools that provide little or no transportation services would receive funding for an expense they do not incur. At the same time, some geographically large districts could experience a steep decline in transportation funding under the new plan. Even districts who have been rated as highly efficient in their use of transportation dollars could see a dramatic decrease in funding through no fault of their own.

Basic allotment. Rather than provide an increase in the per-student

allotment through the general appropriations act, CSHB 21 should include a statutory basic allotment increase to reflect the elimination of the transportation allotment, the high school allotment, and state aid for staff salary increases.

Hardship grants. The hardship grant program under the bill would largely benefit the wealthiest school districts. Awards under the bill's $200 million hardship grant program primarily would go to school districts in the two highest quintiles of wealth per student, according to an analysis by the LBB.

OTHER OPPONENTS SAY:

CSHB 21 would not go far enough in helping districts and charter schools keep up with inflation. One group estimates that a minimum investment of $2.7 billion would be required to keep schools from losing ground during the next two years. The House budget would set aside only an additional $1.5 billion contingent on the enactment of CSHB 21.

Weighted student funding. Increasing the weight for bilingual students from 0.1 to 0.11 would not be sufficient to provide funding to the roughly 1 million Texas students in bilingual education programs. In addition, the bill would not increase the compensatory education weight for economically disadvantaged students, a group that represents a growing portion of Texas students. It costs districts more to educate students from low-income families and those who do not speak English, and Texas should provide districts with additional resources for these populations.

Limiting funding for students with dyslexia or a related disorder to 5 percent of a district's students would be too low and could leave many students without resources.

Hardship grants. CSHB 21 should do more to compensate districts for the loss of funding under the bill as well as the scheduled September 1, 2017, expiration of a 2006 hold harmless provision known as Additional State Aid for Tax Reduction (ASATR). About 160 mostly smaller districts are slated to lose $402 million in ASATR funding during fiscal 2018-19, and would have to share the $200 million in the hardship grant program with districts losing money due to funding changes made by CSHB 21.

NOTES:

Fiscal note. The Legislative Budget Board (LBB) analyzed CSHB 21

with the assumption of a $210 increase in the basic per-student allotment from $5,140 to $5,350. According to the LBB, the bill would:

- save the Foundation School Program $35.9 million in general revenue related funds in fiscal 2018-19;
- offset a biennial cost of $1.8 billion by one-time savings of $1.9 billion due to deferring the final Foundation School Fund payment for fiscal 2019 to fiscal 2020; and
- result in an average gain in revenue of $120 per weighted student to 96 percent of districts and charter schools and 98.8 percent of students.

Comparison of original to substitute. CSHB 21 differs from the bill as introduced in several ways, including that it would:

- expand career and technology funding to include 8th grade and technology applications courses approved for high school credit;
- increase the weight for bilingual education;
- restructure the hardship grant program; and
- defer the final Foundation School Fund payment for fiscal 2019 to fiscal 2020

SUBJECT: Allowing one retiree to be elected to ERS board of trustees

COMMITTEE: Pensions — favorable, without amendment

VOTE: 6 ayes — Flynn, Alonzo, Anchia, Huberty, Paul, J. Rodriguez

0 nays

1 absent — Hefner

WITNESSES: For — Maura Powers, AFSCME Texas Retirees; Bill Dally, Retired State Employees Association; Yolanda Griego, Texas State Employees Union; (*Registered, but did not testify*: Dick Lavine, AFSCME Retired State Employees, Chapter 12; Elaina Fowler, AFSCME Texas Retirees; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Tom Griebel, Retired State Employees Association; Jimmy Rodriguez, San Antonio Police Officers Association; Rene Lara, Texas AFL-CIO; Harrison Hiner, Texas State Employees Union)

Against — None

On — Dwight Harris, Texas AFT; (*Registered, but did not testify*: Ray Hymel, Texas Public Employees Association)

BACKGROUND: Government Code, sec. 815.003 establishes requirements for election to the Employees Retirement System (ERS) of Texas board of trustees. To be elected to one of the three seats on the board, a person must be an ERS member and hold a position included in the employee membership class that is not with an agency or department with which another trustee holds a position.

DIGEST: HB 265 would allow one elected board member of the Employees Retirement System to be a retiree.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 265 would allow the Employees Retirement System (ERS) of Texas

board of trustees to adequately represent the members it serves by increasing the pool of qualified candidates. Other retirement systems, such as the Teachers Retirement System and Texas County and District Retirement System, already permit a retiree to serve on their board. More than one-third of ERS members are retirees, and retired state employees are directly and immediately affected by policymaking decisions of the ERS board, which can lead to changes in their health care coverage and pension annuities. Retirees are more than qualified to serve on the ERS board, considering some have at least two decades of state employment experience and understand the importance of having a properly managed pension fund.

In the 2015 ERS board election, retirees cast about 60 percent of the total 30,000 votes on the ballot. Retirees play a significant role in ERS board elections, and HB 265 would empower more of them to cast votes for a retiree candidate.

OPPONENTS SAY:

HB 265 is unnecessary because the ERS board has functioned fine with its current composition. The Sunset Advisory Commission did not recommend altering the agency's board composition when ERS underwent Sunset review during the 2016-17 cycle.

NOTES:

A companion bill, SB 935 by Hughes, was referred to the Senate State Affairs Committee on March 1.

SUBJECT: Updating TEA public outreach materials and extending their availability

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Marlene Lobberecht, League of Women Voters of Texas; Dwight Harris and Ted Melina Raab, Texas American Federation of Teachers (AFT); Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards)

Against — None

On — (*Registered, but did not testify*: Kara Belew and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 28.015 requires the Texas Education Agency to develop and make available to school districts public outreach materials that explain curriculum changes made through HB 5 by Aycock, enacted by the 83rd Legislature in 2013, which introduced new graduation requirements for public high schools. The public outreach materials also must include information on the top 10 percent program, the TEXAS Grant program, the Texas Educational Opportunity Grant Program, and the Texas B-On-time loan program. Sec. 28.015 expires September 1, 2018.

The 84th Legislature in 2015 enacted HB 700 by Giddings to phase out the Texas B-On-time loan program, which provided zero-interest loans and loan forgiveness to eligible students who graduated within a certain timeframe.

DIGEST: HB 264 would extend the requirement that the Texas Education Agency

make available to school districts certain public outreach materials until September 1, 2020, rather than 2018. The bill also would remove the requirement that the agency include information on the Texas B-On-time loan program in the materials.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 264 would require the Texas Education Agency to provide to school districts certain informational materials for an additional two years, which would give counselors more time to use the resource in their interactions with parents and students. The endorsement tracks created under HB 5 in 2013 are still relatively new, and counselors have received training on them only since 2015. Extending the period during which these informational materials remained available would help counselors assist parents in understanding how the recently created endorsement tracks work as their child navigates high school.

The Texas B-On-time program is no longer available for incoming students, and removing information about the program from informational materials would help avoid confusion.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 1850 by Garcia, was referred to the Senate Committee on Education on March 23.

SUBJECT: Allowing certain convicted persons to apply for restoration of civil rights

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Wilson

1 nay — Lang

1 absent — Canales

WITNESSES: For — Ed Heimlich, Citizens United for Accountable Government; (*Registered, but did not testify*: Margaret "Peggy" Cook and Goodman Holiday, Austin Justice Coalition; Kathryn Freeman, Christian Life Commission; Katija Gruene, Green Party of Texas; Allen Place, Texas Criminal Defense Lawyers Association; Joe Flores; Darwin Hamilton; Lauren Johnson; Darrell Stamps;)

Against — (*Registered, but did not testify*: Nancy Lester)

On — (*Registered, but did not testify*: David Gutierrez, Texas Board of Pardons and Paroles)

BACKGROUND: Code of Criminal Procedure, art. 48.05 provides a form of pardon for those convicted of certain non-violent crimes under federal law or the laws of a foreign country. Certain individuals may apply for a restoration of civil rights forfeited under Texas law as a result of their convictions. Those convicted of a federal crime must wait three years before applying, while those convicted of a crime in another country must wait two. Applications are submitted through county sheriffs or directly to the Board of Pardons and Paroles, which then recommends to the governor whether a person's civil rights should be restored.

DIGEST: HB 152 would extend the list of eligible applicants for restoration of civil rights to include those convicted of any crime under Texas law. It also would require an individual to wait at least three years after a conviction before applying, regardless of whether the offense was committed under Texas law, federal law, or the laws of another country.

The bill would take effect September 1, 2017, and would apply to a conviction that occurred before, on, or after that date.

SUPPORTERS SAY:

HB 152 would allow individuals who committed a crime under Texas law to make their case to the governor as to why they should be given a second chance, just as the law currently allows for those convicted of a federal crime or a crime in a foreign country. This would mean eligible individuals, regardless of whether their offenses were under state, federal, or another country's laws, would be held to the same standard. Some of those convicted under Texas law have been denied the right, for example, to sit on a jury, hold public office, serve as an administrator of an estate, or become a licensed professional simply because they made a bad decision.

No one would be pardoned automatically under the bill. The Board of Pardons and Paroles, as well as local sheriffs, still would review each case individually before making a recommendation, and the governor ultimately would decide whether applicants had proven themselves worthy of having their civil rights restored.

OPPONENTS SAY:

HB 152 could permit serious and violent offenders to avoid the consequences of their crimes by allowing a person convicted of any offense under Texas law, including a capital crime, to apply for a restoration of civil rights. Allowing those convicted of violent crimes under state law to be pardoned effectively could reduce the severity of punishment for such offenses, an essential component of deterring crime and keeping communities safe.

SUBJECT: Removing TEA monitoring requirements for schools with certain ratings

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Michael Hinojosa, Dallas ISD, Texas Urban Council (*Registered, but did not testify*: Audrey Young, Apple Springs ISD Board of Trustees; Julie Linn, District Charter Alliance; Seth Rau, San Antonio ISD; Ted Melina Raab, Texas American Federation of Teachers; Courtney Boswell and Molly Weiner, Texas Aspires Foundation; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Justin Yancy, Texas Business Leadership Council; Janna Lilly, Texas Council of Administrators of Special Education; Mark Terry, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Tami Keeling, Victoria ISD, Texas Association of School Boards)

Against — (*Registered, but did not testify*: Ellen Arnold, Texas PTA)

On — Von Byer, Texas Education Agency (*Registered, but did not testify*: Kara Belew, Texas Education Agency)

BACKGROUND: Education Code, sec. 39.106 requires a public school that receives an unacceptable rating under the school accountability system to be assigned a campus intervention team to help the Texas Education Agency monitor the school and help the school reach an acceptable rating. For each year the campus earns an unacceptable performance rating, the intervention team must continue to work with the school until it has maintained satisfactory performance for two consecutive years or for one year if the Commissioner of Education determines the school is operating in a manner that improves student achievement.

DIGEST:

HB 2263 would remove the provision requiring that a campus intervention team continue to work with a school rated academically unacceptable until it had maintained satisfactory performance for two consecutive years or for one year if the Commissioner of Education determined the school was operating in a manner that improves student achievement.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2263 would enable the Texas Education Agency (TEA) to better focus its time and resources on truly struggling schools by no longer requiring extended monitoring of schools that may have improved after being rated academically unacceptable. Currently, TEA is devoting time and resources to about 450 schools that no longer have unacceptable ratings because they have made sufficient improvements. This bill would enable the agency to better focus its time and resources on the approximately 600 schools that still have unacceptable ratings.

Continual monitoring for two years by TEA through a campus intervention team can be costly for school districts. In addition to burdensome paperwork and administrative costs associated with a campus intervention team, paying a professional service provider, who is an experienced former school or district administrator, to support the school in its intervention requirements and report progress to TEA can cost $75 or more per hour. Eliminating this continual monitoring requirement could save Texas school districts millions of dollars.

School districts already are motivated to avoid returning to an unacceptable rating due to the associated strict sanctions. Monitoring the campus after it is no longer rated unacceptable serves no real purpose and only wastes the time and resources of the school and the agency.

It can be confusing to parents, teachers, and staff when a school that has earned an unacceptable rating continues to be monitored by TEA even after making necessary improvements. Removing the continued monitoring requirement could bring clarity to communities about whether their schools have received an acceptable or unacceptable rating.

Schools that believe they need additional monitoring to avoid fluctuating

in and out of acceptable rating status could continue to work with a campus intervention team if they wished. By removing the requirement for continued monitoring, TEA would have more time and resources to devote to fluctuating schools, improving the likelihood of these schools achieving long-term success.

OPPONENTS SAY:

Many schools fluctuate between acceptable and unacceptable ratings, and HB 2263 would eliminate TEA's mechanism for making sure that the progress of these schools was being properly monitored, even if the schools had been rated acceptable for a certain period. The one or two years of continued monitoring by TEA required under current law is needed to ensure that schools make real structural changes, rather than short-lived improvements.

NOTES:

According to the Legislative Budget Board’s fiscal note, HB 2263 would reduce costs to school districts containing campuses that no longer would be required to contract with a professional service provider after the campus attained an acceptable rating.

Two companion bills, SB 1783 by West and SB 1902 by West, were referred to the Senate Education Committee on March 23.

SUBJECT: Extending free pre-K eligibility to children of certain first responders

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Jason Sabo, Children at Risk; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Joel Romo, Association of Texas EMS Professionals; Mark Wiggins, Association of Texas Professional Educators; Mike Jones, Burleson Professional Firefighters Association; Marshall Kenderdine, Christian Life Commission; Melanie Rubin, Dallas Early Education Alliance; Virginia Martinez Schaefer, Dallas Regional Chamber; Joseph McMahan, Fight Crime: Invest in Kids; Jesse Ayala, Greater Houston Partnership; Johnny Villarreal, Houston Fire Fighters Local 341; Marlene Lobberecht, League of Women Voters of Texas; Gyl Switzer, Mental Health America of Texas; Heather Bryant, Momentous Institute; Will Francis, National Association of Social Workers-Texas Chapter; Deborah Caldwell, North East Independent School District; Jimmy Rodriguez, San Antonio Police Officers Association; Diane Ewing, Texans Care for Children; Ted Melina Raab and Dwight Harris, Texas AFT (American Federation of Teachers); Courtney Boswell, Texas Aspires; Megan Burk, Texas Association for the Education of Young Children; Miranda Goodsheller, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Paige Williams, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Mark Terry, Texas Elementary Principals and Supervisors Association; Mitch Landry and Noel Johnson, Texas Municipal Police Association (TMPA); Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Dee Carney, Texas School Alliance; Glenn Deshields, Texas State Association of Fire Fighters; Portia Bosse, Texas State Teachers Association; Deborah

Ingersoll, Texas State Troopers Association; Max Jones, The Greater Houston Partnership; Stephanie Mace, United Way of Metropolitan Dallas; James Thurston, United Ways of Texas; Aidan Alvarado; Joey Gidseg; Ted Hillin; Kimberly Saldivar; Rolando Solis)

Against — None

On — (*Registered, but did not testify*: Marnie Glaser, Texas Education Agency)

BACKGROUND:

Education Code, sec. 29.153 requires a school district with at least 15 eligible children to offer free prekindergarten classes. A child is eligible for enrollment if he or she does not speak or understand English, qualifies for the federal free or reduced-price lunch program, is homeless or in foster care, or is the child of an active-duty member of the military or a member of the military who was injured or killed on active duty.

Government Code, ch. 3106 requires the Star of Texas Award to be awarded to peace officers, firefighters, and emergency medical first responders who are seriously injured or killed in the line of duty.

DIGEST:

HB 357 would extend eligibility for free prekindergarten programs to a child of a peace officer, firefighter, or emergency medical first responder eligible for the Star of Texas Award. The bill would apply beginning with the 2017-2018 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 357 would extend free prekindergarten eligibility to include children whose parents or guardians were first responders killed or severely injured in the line of duty. In light of recent events in Dallas and across the state, it is important to value the lives, sacrifices, and families of first responders. Studies have shown that prekindergarten is fundamental for a successful educational experience, and the support provided by HB 357 would be especially necessary to help stabilize homes that have been affected by the trauma of losing a parent.

The fiscal impact of HB 357 to Texas would be negligible because the Star of Texas Award is given to only a few dozen first responders annually, some of whom do not have children. The bill would not create a new program but merely would extend eligibility for an existing program to a handful of children.

OPPONENTS SAY:

HB 357 could increase the scope and cost of government by expanding state-subsidized prekindergarten programs. It would give preferred treatment to a certain group by moving their prekindergarten costs to taxpayers already paying the full cost of their own children's education.